

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

HILARY REMIJAS, MELISSA FRANK,  
DEBBIE FARNOUSH, and JOANNE KAO,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

THE NEIMAN MARCUS GROUP, LLC, a  
Delaware limited liability company,

Defendant.

Case No. 1:14-cv-01735

Honorable Sharon Johnson Coleman

**REASSIGNED CASE JOINT STATUS REPORT**

The parties and both objectors to the class action settlement (the “Settlement”) before the Court in this action submit this Reassigned Case Joint Status Report, in accordance with the Court’s Order dated March 28, 2018. Dkt. 188. In summary, this is a class action in which the parties reached a settlement agreement following mediation. The District Court, on Plaintiffs’ motion, certified the class and preliminarily approved the Settlement. After Plaintiffs filed a motion for final approval of the Settlement and a motion for attorneys’ fees, costs, and class representative service awards, two objections were filed. The parties and objectors completed briefing and participated in oral argument before Judge Samuel Der-Yeghiayan on the motions for final approval of the Settlement and for approval of attorneys’ fees, costs, and service awards,

which have been pending decision since November 21, 2017. In light of Judge Der-Yeghiayan's decision to retire as of February 17, 2018, this case was reassigned to this Court.

### **1. Nature of the Case and Procedural History**

Plaintiffs and the class are represented by Tina Wolfson (lead trial attorney) and Theodore Maya of Ahdoot & Wolfson, P.C.; John Yanchunis of Morgan & Morgan; and liaison counsel Joseph J. Siprut of Siprut PC. Defendant is represented by David H. Hoffman (lead trial attorney), Geetanjli Malhotra, and Daniel Craig of Sidley Austin.

In January 2014, Defendant Neiman Marcus announced that it had experienced a data security incident in which a hacker surreptitiously installed malware on point-of-sale registers in some of Defendant's stores (the "Incident"). As set forth in the settlement agreement (Dkt. 145-1) (the "Settlement Agreement"), the Incident potentially compromised the credit or debit card information of customers who used a credit card or debit card at certain of Defendant's stores at certain times between July 16 and October 30, 2013. Dkt. 145-1, ¶¶ 1, 4.

Plaintiff Remijas filed this action on March 12, 2014. Other plaintiffs filed similar actions in a number of jurisdictions, and Plaintiffs' counsel self-organized to consolidate their actions in this Court. *See, e.g.*, Dkt. 160, Declaration of Tina Wolfson ("Wolfson Decl."), ¶¶ 1-6. Plaintiffs filed their First Amended Complaint on June 6, 2014. Dkt. 27.

Defendant moved to dismiss Plaintiffs' First Amended Complaint for lack of standing under Rule 12(b)(1) and for failure to state a claim under Rule 12(b)(6). Dkt. 35. Plaintiffs opposed but, on September 16, 2014, the Court (Judge James B. Zagel) granted Defendant's motion to dismiss under Rule 12(b)(1) and dismissed the action on standing grounds. Dkt. 49.

Plaintiffs appealed, and the Seventh Circuit reversed and remanded, holding that Plaintiffs had adequately alleged standing under Article III of the U.S. Constitution. Dkt. 66 at

17; *Remijas v. Neiman Marcus Group, LLC*, 794 F.3d 688 (7th Cir. 2015). Defendant then renewed its Motion to Dismiss under Rule 12(b)(6) for failure to state a claim (Dkt. 75), which the Court denied on January 13, 2016. Dkt. 84.

In December 2015 and March 2016, the parties mediated before retired Judge Wayne R. Andersen. After mediation and other settlement discussions, the parties agreed to the class action Settlement Agreement and Plaintiffs moved for preliminary approval of the Settlement on March 17, 2017. Dkt. 144-45. The Settlement Agreement is at Docket No. 145-1.

In the meantime, on October 26, 2016, this action was transferred from Judge Zagel to Judge Der-Yeghiayan. Dkt. 121. On June 21, 2017, the Court issued an Order Preliminarily Certifying a Settlement Class, Preliminarily Approving the Class Action Settlement, and Directing Notice to the Settlement Class. Dkt. 154.

On August 21, 2017, Plaintiffs filed a motion for final approval of the Settlement and a motion for attorneys' fees, costs, and class representative service awards. Dkts. 158, 159.

Two objections were filed to the Settlement. On September 1, 2017, Parvinder Chohan, who is represented by Jay Edelson and Ryan D. Andrews of Edelson PC, filed an objection. Dkt. 164. On September 4, 2017, Gretchen Carey and Donald Plunkett, who are represented by Amy M. Wilkins of the Wilkins Firm, PLLC, filed an objection. Dkt. 165. On October 19, 2017, Plaintiffs and Defendant filed separate briefs in response to the objections and in support of the motion for final approval of the Settlement. Dkts. 167, 169.

The Court held a hearing regarding final approval of the Settlement on October 26, 2017, and heard oral argument from the objectors and the parties regarding the objections. A transcript of that hearing is at Dkt. 183. At the hearing, the Court granted Objector Chohan's motion seeking leave to file additional briefing in reply to Plaintiffs' and Defendant's response briefs,

Dkt. 173, and gave Plaintiffs and Defendant an opportunity to file sur-replies. On November 9, Objectors Carey, Chohan, and Plunkett filed a joint reply brief in support of their objections, Dkt. 178, and on November 21, Plaintiffs and Defendant filed sur-reply briefs. Dkts. 181, 182.

The motion for final approval and the objections have thus been pending, following full briefing and a hearing, since November 21, 2017. On January 16, 2018, in light of Judge Deryeghiyan's decision to retire from the Court as of February 17, 2018, this action was reassigned to Judge Sharon Johnson Coleman. Dkt. 188.

## **2. Pending Motions**

As described above, Plaintiff's motion for final approval of the Settlement (Dkt. 158) and for an award of attorneys' fees, costs, and class representative service awards (Dkt. 159) are pending, as are the objections (Dkts 164, 165). Briefing on the motions is complete and no deadlines are pending.

For the Court's reference, the filings pertaining to the pending motions are listed below:

- Dkt. 145-1 through Dkt. 145-9 – Settlement Agreement and Exhibits Thereto
- Dkt. 154 – Order Certifying a Settlement Class, Preliminarily Approving Class Action Settlement and Directing Notice to the Settlement Class
- Dkt. 158 – Plaintiffs' Motion for Final Approval of Class Action Settlement (supporting affidavits at Dkts. 160 through 162)
- Dkt. 159 – Plaintiffs' Motion for Attorneys' Fees, Costs, and Class Representative Service Awards (supporting affidavits at Dkts. 160 and 161)
- Dkt. 164 – Objector Parvinder Chohan's Objection to Class Action Settlement
- Dkt. 165 – Objector Gretchen Carey and Objector Donald Plunkett, Jr.'s Objection to Class Settlement
- Dkt. 167 – Plaintiffs' Reply in Support of Final Approval of Class Action Settlement, Attorneys' Fees, Costs, and Class Representative Service Awards (supporting affidavits at Dkts. 167-1 and 167-2)
- Dkt. 169 – Defendant's Response to Objections to Class Action Settlement (supporting affidavits at Dkts. 169-1 and 169-2)
- Dkt. 178 – Objectors' Reply in Support of Objections to Class Action Settlement
- Dkt. 181 – Defendant's Sur-Reply to Objections to Class Action Settlement
- Dkt. 182 – Plaintiffs' Sur-Reply in Response to Objections to Class Action Settlement
- Dkt. 183 – Transcript of Fairness Hearing Held on October 26, 2017

- Dkt. 184 – Transcript of Motion Hearing Held on October 31, 2017

### **3. Discovery**

This case has not been referred to the Magistrate Judge for discovery supervision. As described above, Plaintiffs and Defendant have reached a Settlement, and Plaintiffs' motion for final approval of that Settlement is pending before the Court. No discovery is pending.

### **4. Trial**

As described above, Plaintiffs and Defendant have reached a Settlement, and Plaintiffs' motion for final approval of that Settlement is pending before the Court. Before reaching the Settlement, Plaintiffs requested a jury trial. Plaintiffs and Defendant anticipate that a jury trial would take several weeks.

### **5. Settlement**

As described above, Plaintiffs and Defendant have reached a Settlement, and Plaintiffs' motion for final approval of that Settlement is pending before the Court. Therefore, the parties do not request a settlement conference.

Dated: April 9, 2018

Respectfully submitted,

*/s/ Theodore Maya*  
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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on April 9, 2018, I caused the foregoing to be electronically filed with the Clerk of the Court in the United States District Court for the Northern District of Illinois by using the CM/ECF system, which served copies on all interested parties registered for electronic service.

/s/ Theodore Maya